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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 CHILDREN'S HEALTH DEFENSE,
14
15 Plaintiff,
16
17 v.
18 FACEBOOK, INC., et al.,
19
20 Defendants.

Case No. 3:20-cv-05787-SI

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF PLAINTIFF'S OPPOSITION
TO MOTIONS TO DISMISS AND IN
SUPPORT OF PLAINTIFF'S MOTION TO
SUPPLEMENT THE PLEADINGS**

Fed. R. Evid. 201

NOTICE OF REQUEST FOR JUDICIAL NOTICE

21 PLEASE TAKE NOTICE THAT Plaintiff Children's Health Defense's ("CHD") hereby requests
22 that judicial notice be taken of certain facts. Plaintiff does not request to be heard on the propriety of taking
23 judicial notice of these adjudicative facts. (Fed. R. Evid. 201(e).)

STATEMENT OF REQUESTED RELIEF

24 Pursuant to Federal Rule of Evidence 201, CHD respectfully requests that the Court take judicial
25 notice of the facts and materials described below in connection: (1) with Defendants' pending motions to
26 dismiss; (2) with CHD's pending motion to supplement the pleadings; and (3) with any future proceedings
27 in this case to which these facts and materials may be relevant.
28

LEGAL STANDARD

Federal Rule of Evidence 201 permits the court to take judicial notice of facts that “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2). Judicial notice may be requested “at any stage in the proceedings.” *Id.* 201(d). A court “may take judicial notice on its own,” but “*must* take judicial notice if a party requests it and the court is supplied with the necessary information.” *Id.* 201(c) (emphasis added).

Courts regularly take judicial notice of “matters of public record,” *Harris v. Cty. of Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012); of “facts reported in newspaper articles if the facts are ‘capable of a sufficiently accurate and ready determination,’” 1 WEINSTEIN’S FEDERAL EVIDENCE § 201.12[2] (citations omitted), or if the news articles are offered not for the truth of the matters asserted but as evidence that such facts have been publicly reported, *see, e.g., The Washington Post v. Robinson*, 935 F.2d 282, 291-92 (D.C. Cir. 1991); of matter published on government websites, *see, e.g., Denius v. Dunlap*, 330 F.3d 919, 926 (7th Cir. 2003); *Cty. of Santa Clara v. Astra USA, Inc.*, 401 F. Supp. 2d 1022, 1024 (N.D. Cal. 2005); and of a party’s own disclosures if the authenticity of those disclosures is not disputed. *See, e.g., In re Extreme Networks, Inc.*, 2018 U.S. Dist. LEXIS 46638 at * 43 (N.D. Cal. Mar. 21, 2018); *Vess v. Bank of Am., N.A.*, 2012 U.S. Dist. LEXIS 4484 at *7 (S.D. Cal. Jan. 13, 2012); *Velazquez v. GMAC Mortg. Corp.*, 605 F. Supp. 2d 1049, 1058 (C.D. Cal. 2008).

FACTS TO BE JUDICIALLY NOTICED

Plaintiff CHD respectfully requests the Court to take notice of the following facts:

1. On April 9, 2019, representatives of major Internet companies, including Facebook, were summoned before the House Judiciary Committee to answer questions about dangerous content on social media. House Committee on the Judiciary, Hearings, <https://judiciary.house.gov/calendar/eventslisting.aspx?EventTypeID=215&CategoryID=0&Congress=&Count=All>.

2. Immediately after that hearing, Congressman Cedric Richmond stated publicly that social media companies, including Facebook, had “better” restrict what he and other members of Congress deemed dangerous or harmful content or, “We’re going to make [regulation] swift, we’re going to make it strong, and we’re going to hold them very accountable.” Tony Romm, *Lawmakers Plan to Ratchet Up Pressure on Tech Companies’ Content Moderation Policies*, Wash. Post (Apr. 9, 2019),

1 [https://www.washingtonpost.com/news/powerpost/paloma/the-technology-202/2019/04/09/the-technology-](https://www.washingtonpost.com/news/powerpost/paloma/the-technology-202/2019/04/09/the-technology-202-lawmakers-plan-to-ratchet-up-pressure-on-tech-companies-content-moderation-practices/5cabee50a7a0a475985bd372)
 2 [202-lawmakers-plan-to-ratchet-up-pressure-on-tech-companies-content-moderation-](https://www.washingtonpost.com/news/powerpost/paloma/the-technology-202/2019/04/09/the-technology-202-lawmakers-plan-to-ratchet-up-pressure-on-tech-companies-content-moderation-practices/5cabee50a7a0a475985bd372)
 3 [practices/5cabee50a7a0a475985bd372](https://www.washingtonpost.com/news/powerpost/paloma/the-technology-202/2019/04/09/the-technology-202-lawmakers-plan-to-ratchet-up-pressure-on-tech-companies-content-moderation-practices/5cabee50a7a0a475985bd372). Chairman of the House Judiciary Committee Jerrold Nadler added,
 4 “Let’s see what happens by just pressuring them.” *Id.*

5 3. Three days after that hearing, in April, 2019, Speaker of the House Nancy Pelosi publicly
 6 warned social media companies that those companies’ Section 230 immunity could be “in jeopardy.”
 7 Emily Birnbaum, *Pelosi puts tech on notice with warning of ‘new era’ in regulation*, The Hill (Apr. 12,
 8 2019), <https://thehill.com/policy/technology/438652-pelosi-warns-its-a-new-era-for-regulating-big-tech>.
 9 Speaker Pelosi further commented that “the era of self-regulation” in this country for Big Tech is
 10 “probably” over, and that “[w]hen we come to 230, you really get their attention . . . it is not out of the
 11 question that that could be removed” because “for the privilege of 230, there has to be a bigger sense of
 12 responsibility on it.” *Id.*; see [https://www.vox.com/2019/4/12/18307957/nancy-pelosi-donald-trump-](https://www.vox.com/2019/4/12/18307957/nancy-pelosi-donald-trump-twitter-tweet-cheap-freak-presidency-kara-swisher-decode-podcast-interview)
 13 [twitter-tweet-cheap-freak-presidency-kara-swisher-decode-podcast-interview](https://www.vox.com/2019/4/12/18307957/nancy-pelosi-donald-trump-twitter-tweet-cheap-freak-presidency-kara-swisher-decode-podcast-interview) (audio and transcript).

14 4. In June 2020, Speaker Pelosi, referring specifically to Facebook and to so-called “COVID-
 15 19 disinformation,” declared that “social media executives have utterly failed to stop the spread of
 16 disinformation on their platforms.” William Turvill, *Nancy Pelosi: Social media bosses have ‘utterly failed’*
 17 *to combat Covid-19 disinformation*, PressGazette (June 17, 2020), [https://www.pressgazette.co.uk/nancy-](https://www.pressgazette.co.uk/nancy-pelosi-social-media-bosses-have-utterly-failed-to-combat-covid-19-disinformation)
 18 [pelosi-social-media-bosses-have-utterly-failed-to-combat-covid-19-disinformation](https://www.pressgazette.co.uk/nancy-pelosi-social-media-bosses-have-utterly-failed-to-combat-covid-19-disinformation). At the same time, she
 19 warned that Congress and others “must send a message to social media executives: *You will be held*
 20 *accountable for your misconduct.*” *Id.* (emphasis added). Remarks similar in substance are published on
 21 Speaker Pelosi’s official government website. See Nancy Pelosi, Speaker of the House, Update,
 22 *Disinformation Must Stop*, Jun. 1, 2020, [https://pelosi.house.gov/media-center/pelosi-](https://pelosi.house.gov/media-center/pelosi-updates/disinformation-must-stop)
 23 [updates/disinformation-must-stop](https://pelosi.house.gov/media-center/pelosi-updates/disinformation-must-stop).

24 5. Speaker Pelosi made these comments as the House Committee on Energy and Commerce
 25 was about to conduct a hearing entitled, “A Country in Crisis: How Disinformation Online is Dividing the
 26 Nation.” House Committee on Energy and Commerce, Jun. 24, 2020, [https://energycommerce.house.gov/](https://energycommerce.house.gov/committee-activity/hearings/joint-hearing-on-a-country-in-crisis-how-disinformation-online-is)
 27 [committee-activity/hearings/joint-hearing-on-a-country-in-crisis-how-disinformation-online-is](https://energycommerce.house.gov/committee-activity/hearings/joint-hearing-on-a-country-in-crisis-how-disinformation-online-is).

28 6. In his opening statement for this hearing, Chairman Mike Doyle said:

The matter before the Committee today is one of pressing importance, the flood of disinformation online—principally distributed by social media companies—and the dangerous and divisive impact it is having on our nation as we endure the COVID-19 epidemic. . . . Our nation and the world are facing an unprecedented tsunami of disinformation that threatens to devastate our country and the world. It has been driven by . . . the social media companies themselves—who have put profits before people as their platforms have become awash in disinformation [T]hese companies [Facebook, YouTube and Twitter] have made trillions of dollars by feeding people what they want to hear. As a result, these platforms have peddled lies about COVID 19. . . . Make no mistake, the future of our democracy is at stake and the status quo is unacceptable. While Section 230 has long provided online companies the flexibility and liability protections they need to innovate and to connect people from around the world, it has become clear that reform is necessary if we want to stem the tide of disinformation rolling over our country.

Opening Statements, Committee on Energy and Commerce Hearing on “A Country in Crisis: How Disinformation Online is Dividing the Nation,” June 24, 2020, https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/2020.6.24.DOYLE_.SCHAKOWSKY.%20Disinformation%20Online%20dividing%20the%20Nation.CAT_.CPC__1.pdf (statement of Chairman Doyle).

7. In her opening statement for the same hearing, Chairman Jan Schakowsky said:

The truth is, Section 230 protects business models that generate profits off scams [and] fake news This was never the intent, and since both courts and industry refuse to change, Congress must act. . . . Facebook in particular seems to enjoy a cozy relationship with the Trump Administration, aided by Facebook’s own loyal Trump supporters [S]omething needs to be done. The American people are dying and suffering as a result of online disinformation. I look forward to working with my colleagues to modernize Section 230.

Id. (statement of Chairman Schakowsky).

8. In July 2020, the House Judiciary Committee questioned the CEOs of the biggest tech Internet platforms. At these hearings, Democratic Congressman Jamie Raskin accused the tech companies of not taking strong enough action to block speech he deemed objectionable and dangerous. Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on the Judiciary, INVESTIGATION OF COMPETITION IN DIGITAL MARKETS 68 (2020). The committee report, which proposed sweeping antitrust measures with drastic economic consequences for big tech platforms, expressly referred to the failure of big tech to curb such content as evidence of the lack of meaningful competition in their markets. *Id.* at 67 (“because there is not meaningful competition, dominant firms face little financial consequence when misinformation and propaganda are promoted online”).

9. The several-hundred page report issued by the Judiciary Committee in early October, 2020,

specifically found that Facebook had monopoly power in the social networking market and proposed forcing Facebook to divest itself of billion-dollar platforms like Instagram. *See generally id.*; Marcy Gordon, *Democrats Call for Congress to Rein In, Break Up Big Tech*, Associated Press, Oct. 6, 2020, apnews.com/article/technology-50e69e921c6699a3edbd730c12292436.

10. In October 2020, the Senate Commerce Committee announced yet another congressional hearing on the failure of big tech to curb “misinformation” online, voting to subpoena the big three tech CEOs, including Defendant Zuckerberg, if they didn’t agree to testify voluntarily. Mary Gordon, *CEOs of 3 Tech Giants To Testify at Oct. 28 Senate Hearing*, Oct. 5, 2020, <https://abcnews.go.com/Business/wireStory/ceos-social-media-giants-testify-senate-hearing-73433414>.

11. As announced on the official committee website, the hearing was entitled, “Does Section 230’s Sweeping Immunity Enable Big Tech Bad Behavior?” U.S. Senate Committee on Commerce, Science and Transportation, Oct. 28, 2020, <https://www.commerce.senate.gov/2020/10/does-section-230-s-sweeping-immunity-enable-big-tech-bad-behavior>.

12. The official committee announcement of the hearing states: “The hearing will examine whether Section 230 of the Communications Decency Act has outlived its usefulness in today’s digital age. It will also examine legislative proposals to modernize the decades-old law, increase transparency and accountability among big technology companies for their content moderation practices.” *Id.*

13. At the hearing, members of Congress once again threatened the major tech platforms with adverse legal consequences such as elimination of their Section 230 immunity if they did not engage in “more content moderation.” Lauren Feiner, *Big Tech CEO Senate Hearing Ends with Little Discussion on How To Fix Companies’ Liability Shield*, Oct. 28, 2020, <https://www.cnbc.com/2020/10/28/facebook-google-and-twitter-ceos-testify-in-congress-over-section-230-live-updates.html>. A full audio recording of the hearing is available at <https://www.commerce.senate.gov/2020/10/does-section-230-s-sweeping-immunity-enable-big-tech-bad-behavior>.

14. In November, 2020, President-elect Biden announced that Congressman Richmond, who had warned social media companies that they’d “better” restrict what he and other members of Congress deemed dangerous or harmful content or, “We’re going to make [regulation] swift, we’re going to make it strong, and we’re going to hold them very accountable,” *supra*, would be joining the White House in

January, 2021 to serve as a Senior Advisor to the President. Bart Jansen, *Joe Biden names 9 top White House appointees, including Rep. Cedric Richmond and campaign manager O'Malley Dillon*, USA Today (Nov. 17, 2020).

15. As reported on the official governmental website of Senator Amy Klobuchar, on January 21, 2021, Senator Klobuchar along with other Senators sent a letter to Zuckerberg as well as the CEOs of other major social media companies, demanding that they crack down on “vaccine-related misinformation.” The letter did not state this demand as a request but as an “imperative”: “policies *must* be strictly enforced to limit users’ exposure to misinformation.” News Release, *Senators Klobuchar, Baldwin, Peters Urge Tech Industry Leaders to Combat Coronavirus Vaccine Misinformation*, Jan. 25, 2021, <https://www.klobuchar.senate.gov/public/index.cfm/2021/1/senators-klobuchar-baldwin-peters-urge-tech-industry-leaders-to-combat-coronavirus-vaccine-misinformation> (emphasis added).

16. In February, 2021, the House Committee on Energy and Commerce summoned Zuckerberg as well other Big Tech CEOs to testify at a March hearing on the supposed “misinformation and disinformation plaguing online platforms,” including specifically supposed “falsehoods about the COVID-19 vaccine.” See, e.g., Glenn Greenwald, *Congress Escalates Pressure on Tech Giants to Censor More, Threatening the First Amendment*, Substack, Feb. 20, 2021, <https://greenwald.substack.com/p/congress-escalates-pressure-on-tech>; *E&C Committee Announces Hearing With Tech CEOs On The Misinformation Plaguing Online Platforms*, House Committee on Energy and Commerce, Feb. 18, 2021, <https://energycommerce.house.gov/newsroom/press-releases/ec-committee-announces-hearing-with-tech-ceos-on-the-misinformation-and>.

17. In a joint public statement on February 18, 2021, announcing the March hearing, the House committee chairs asserted: “These online platforms have allowed misinformation to spread, intensifying national crises with real-life, grim consequences for public health and safety. This hearing will continue the Committee’s work of *holding online platforms accountable* for the growing rise of misinformation and disinformation.” *E&C Committee Announces Hearing With Tech CEOs On The Misinformation Plaguing Online Platforms*, House Committee on Energy and Commerce, Feb. 18, 2021, <https://energycommerce.house.gov/newsroom/press-releases/ec-committee-announces-hearing-with-tech-ceos-on-the-misinformation-and> (emphasis added).

18. On March 25, 2021, the House Energy and Commerce Committee questioned three Big Tech CEOs, including Zuckerberg, at a hearing entitled “Disinformation Nation: Social Media’s Role in Promoting Extremism and Disinformation.” House Energy and Commerce Committee, Hearings, <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-disinformation-nation-social-medias-role-in-promoting>.

19. The “Memorandum from Chairman Pallone” prepared for this hearing indicated that a principal topic of the hearing was the “role” of “Facebook, Google, and Twitter” in “the dissemination and amplification of misinformation and extremist content. For instance, since the beginning of the coronavirus disease of 2019 (COVID-19) pandemic, all three platforms have spread substantial amounts of misinformation about COVID-19.” House Committee on Energy and Commerce, <https://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-20210325-SD002.pdf>.

20. In his opening statement for this hearing, Chairman Frank Pallone, Jr. said:

Five years ago, . . . Facebook, Google, and Twitter were warned about – but simply ignored – their platforms’ role in spreading disinformation. Since then, the warnings have continued, but the problem has only gotten worse. . . . It is now painfully clear that neither the market nor public pressure will force these social media companies to take the aggressive action they need to take to eliminate disinformation and extremism from their platforms. And, therefore, it is time for Congress and this Committee to legislate and realign these companies’ incentives to effectively deal with disinformation The dirty truth is that [Facebook, Google, and Twitter] are relying on algorithms to purposefully promote conspiratorial, divisive, or extremist content so they can rake in the ad dollars. . . . It’s crucial to understand that these companies aren’t just mere bystanders – they are playing an active role in the meteoric rise of disinformation and extremism. So when a company is actually promoting this harmful content, I question whether existing liability protections should apply. Members on this Committee have suggested legislative solutions and introduced bills. The Committee is going to consider all these options so that we can finally align the interests of these companies with the interests of the public and hold the platforms, and their CEOs, accountable when they stray. That is why you are here today, Mr. Zuckerberg, Mr. Pichai, and Mr. Dorsey. You have failed to meaningfully change after your platforms played a role in fomenting insurrection, in abetting the spread of COVID-19, and trampling Americans civil rights. . . . The time for self-regulation is over. It is time we legislate to hold you accountable.

Committee on Energy and Commerce, Opening Statement as Prepared for Delivery of Chairman Frank Pallone, Jr., Mar. 25, 2021, https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Opening%20Statement_Pallone_CAT-CPC_2021.3.25_0.pdf.

21. As reported in one major newspaper, at the March 25 hearing, “Lawmakers slammed the leaders of Facebook, Google and Twitter for the of their companies in the deadly Capitol attack and for

failing to police . . . COVID-19 and vaccine misinformation on their platforms, warning that Washington is prepared to crack down,” including by removing those companies’ “legal protections under Section 230 of the Communications Decency Act.” Jessica Guynn, *Hate Speech, Censorship, Capitol Riot, Section 230: Lawmakers Slam Facebook, Google and Twitter, Warn of Regulation*, USA Today, Mar. 25, 2021, <https://www.usatoday.com/story/tech/2021/03/25/facebook-google-youtube-twitter-dorsey-zuckerberg-pichai-section-230-hearing/6990173002>.

22. Ahead of the March 25 hearing, Consumer Protection and Commerce Chair Jan Schakowski wrote that “this hearing is really a call to action. We need to make these companies more accountable to the American people.” Rep. Schakowski added that this goal would be accomplished by her bill, the Online Consumer Protection Act, which would cut back social media companies’ Section 230 immunity, provide for FTC enforcement, and allow consumer lawsuits. *House to Confront Tech CEOs Over Online Spread of False Info*, Bloomberg Law, Mar. 22, 2021, [news.bloomberglaw.com/tech-and-telecom-law/house-to-confront-tech-ceos-over-online-spread-of-false-info](https://www.bloomberglaw.com/tech-and-telecom-law/house-to-confront-tech-ceos-over-online-spread-of-false-info).

23. On April 19, 2021, Senators Amy Klobuchar (D-Minn.) and Ben Ray Lujan (D-NM) wrote a letter to Zuckerberg condemning Facebook for failing to take sufficiently aggressive action against “vaccine misinformation” and demanding that Facebook do more to censor and silence certain specified supposed “anti-vaccine influencers,” including “Robert F. Kennedy, Jr.” United States Senator Amy Klobuchar, *Amy Klobuchar Takes Aim at 12 Vaccine Misinformation Influencers*, Apr. 19, 2021, <https://www.klobuchar.senate.gov/public/index.cfm/2021/4/amy-klobuchar-takes-aim-at-12-vaccine-misinformation-influencers>.

24. Even as she was writing Facebook in January 2021, demanding more censorship of “vaccine misinformation,” Senator Klobuchar, who is Chair of the Senate Judiciary antitrust committee, had also introduced legislation that would enable the federal government to impose unprecedented billion-dollar fines on Facebook under federal antitrust law. Isobel Asher Hamilton, *A new antitrust bill could pose a huge threat to Google, Amazon, Apple, and Facebook, with potential fines of up to 15% of annual revenue*, Business Insider, Feb. 4, 2021, [businessinsider.com/amy-klobuchar-antitrust-bill-apple-amazon-google-facebook-fines-2021-2](https://www.businessinsider.com/amy-klobuchar-antitrust-bill-apple-amazon-google-facebook-fines-2021-2); United States Senator Amy Klobuchar, *Klobuchar Introduces Legislation to Deter Anticompetitive Abuses*, Mar. 10, 2020, <https://www.klobuchar.senate.gov/public/>

1 index.cfm/2020/3/klobuchar-introduces-legislation-to-deter-anticompetitive-abuses.

2 25. On or about February 8, 2021, Facebook issued its “COVID-19 and Vaccine Policy Updates
3 & Protections,” which prohibit, inter alia, users from posting any “claims that COVID-19 vaccines are not
4 effective in preventing COVID-19.” Facebook COVID-19 and Vaccine Policy Updates & Protections,
5 <https://www.facebook.com/help/230764881494641>. The Court may take judicial notice of the existence
6 and content of this website. *See Threshold Enters. Ltd. v. Pressed Juicery, Inc.*, 445 F. Supp. 3d 139, 146
7 (N.D. Cal. 2020). It cannot reasonably be disputed that Facebook made the quoted statement as that fact
8 can be readily determined from sources whose accuracy cannot reasonably be disputed. *See id.* at 145.

9 26. Facebook maintains a “Coronavirus (COVID-19) Information Center” which Facebook
10 makes available to all of its users. Facebook Coronavirus (COVID-19) Information Center,
11 https://www.facebook.com/coronavirus_info. The Page contains updates, a link to the CDC.gov, links to
12 other “leading health organizations,” a “Facts about COVID-19” section, a “Find a COVID vaccine” link,
13 and a curated “feed” of posts about COVID-19 that often features and cross-links with posts from the CDC.
14 Feedback inserts links to its “Coronavirus (COVID-19) Information Center” into users’ personal feeds.
15 Additionally, the CDC maintains its own Facebook page of “public health”-related information which the
16 CDC wishes to make available to Facebook users. <https://www.facebook.com/CDC>.

17 27. A high-ranking Facebook officer had publicly and expressly admitted that Facebook
18 removes content challenging vaccine efficacy, safety, or necessity *even if that content is true*. According to
19 a Facebook vice president, the company is “removing groups, pages and accounts that deliberately
20 discourage people from taking vaccines, regardless of whether the information can be verified as false or
21 not.” BBC News, *The volunteers using “honeypot” groups to fight anti-vax propaganda*, May 10, 2021,
22 <https://www.bbc.com/news/blogs-trending-57051691>.

23 **ARGUMENT**

24 The statements by members of Congress are material to CHD’s claim that the test establishing
25 when permissible exhortation crosses the line into impermissible coercion was met here: “Where comments
26 of government officials can reasonably be interpreted as intimating that some form of punishment or
27 adverse regulatory action will follow failure to accede to official’s request, a valid [First Amendment]
28 claim can be stated.” *Hammerhead Enterprises, Inc. v. Brezenoff*, 707 F.2d 33, 39 (2d Cir. 1983); *American*

1 *Family Ass'n v. San Francisco*, 277 F.3d 1114, 1125 (9th Cir. 2002). None of these statements is offered
 2 for the truth of matters asserted (for example, congressional statements that social media companies have
 3 “failed” to curb the spread of “COVID disinformation” are not offered for the truth of that proposition), but
 4 solely for the fact that they were made and publicly reported. All these statements, as well as the hearings
 5 referenced above, are matters of public record “not subject to reasonable dispute” under Fed. R. Evid. 201
 6 and the authorities set forth above, and are appropriate for judicial notice.

7 The disclosures made by Facebook are material to CHD’s claim that Facebook, despite its claims to
 8 remove or restrict only “false” vaccine-related content, actually restricts true content as well, so long as that
 9 content challenges the positions or recommendations of the CDC. Because these disclosures were made by
 10 Facebook itself on its own website, or by its own high-ranking officers, and their authenticity is not
 11 seriously open to dispute, these statements are appropriate for judicial notice.

12 Finally, Facebook’s “Coronavirus (COVID-19) Information Center” and the CDC’s Facebook page
 13 illustrate the wide ambit of free speech available to Facebook which is not implicated by CHD’s action to
 14 enjoin Facebook from its state-sponsored censorship of CHD’s page.

15 CONCLUSION

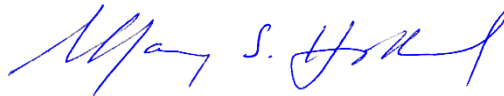
16 For the reasons set forth herein, CHD respectfully requests that the Court take judicial notice of the
 17 facts enumerated above.

18 Dated: May 11, 2021

Respectfully submitted,

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 21 Founder and Chairman, Children’s Health Defense

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23 MARY S. HOLLAND
 24 General Counsel, Children’s Health Defense

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26 ROGER I. TEICH
 27 Counsel for Plaintiff Children’s Health Defense
 28